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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/907,216	07/17/2001	Tetsuji Kawashima	7217/64949	8618

7590

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EXAMINER

EDUN, MOHAMMAD N

ART UNIT

PAPER NUMBER

2655

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/907,216

Applicant(s)

KAWASHIMA ET AL.

Examiner

MUHAMMAD N EDUN

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9,10,13-15,24,27 and 29 is/are allowed.
- 6) ☒ Claim(s) 1,5,6,11,12,16,17,19,21,25 and 26 is/are rejected.
- 7) ☐ Claim(s) 2-4,7,8,18,20,22,23 and 28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 5, 6, 11, 12, 16, 17, 19, 21, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasuda et al. (4,723,235) in view of Uemura (5,790,488).

Yasuda et al. discloses the invention substantially as claimed, except does not teach the apparatus having the ability for recording of information. Figs. 1-3 show the recording and reproducing apparatus for recording and reproducing either CAV or CLV format type disk having: the laser-light emitting means and detecting means (being part of the pickup device 3), the driving means (2) rotating the loaded disk ; the determining means (6 and 7) for determining a type of the loaded disk (based on extracting the code of the type of disk (Philips code), see column 4) ; and driving control means and recording control means(10) for controlling the driving means according to the result of determination performed by the determination means, so as to perform rotation driving at one of a constant angular velocity and at a constant linear velocity (see column 4, lines 50-53), and for executing recording or reproduction for the loaded disk in a state in which the control means performs rotation driving controls (see column 4, lines 50-68), as set forth in the claims. See the description of the apparatus and figures for further details relating to the limitations as set forth in the claims.

Uemura teaches that it is known to have an optical apparatus capable of providing reproducing of information as well as recording of information using different types of recording formats, and including CAV and CLV formats, see the abstract and Fig. 1-7.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Yasuda in view of Uemura, such that the apparatus include the ability of recording of information of the disk, as taught by Uemura, since

such a modification would increase the overall usage of the apparatus and provide a more versatile device.

Allowable Subject Matter

Claims 9, 10, 13-15, 24, 27 and 29 are allowed.

Claims 2-4, 7, 8, 18, 20, 22, 23 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter.

The prior art of record alone or in combination does not teach or suggest method and system of claims 1, 6, 16 and 21 having the further limitations as set forth in claims 2-4, 7, 8, 18, 20, 22, 23 and 28. Further the prior art does not teach the recording apparatus and method having the combination of elements and steps with their recited structure, process and arrangement, along with the specific structure and process of

the: detecting means and step for detecting substituted-area identification information, as set forth in claims 9, 10 and 24; and the detecting means and step for detecting recording-start-position information, as set forth in claims 13-15, 27 and 29.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUHAMMAD N EDUN whose telephone number is 703-308-1550. The examiner can normally be reached on FLEXITIME.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DORIS TO can be reached on 703-305-4827. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9051 for regular communications and 703-308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.



MUHAMMAD N EDUN
Primary Examiner
Art Unit 2655